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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/767,492 | 01/29/2004 | Danny Yi-Hung Lin | 11706/4 | 5055 |

7590 11/03/2005

BRINKS HOFER GILSON & LIONE
Suite 3600
NBC Tower
455 N. Cityfront Plaza Drive
Chicago, IL 60611-5599

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| EXAMINER |
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CHHABRA, ARUN S

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| ART UNIT | PAPER NUMBER |
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3764

DATE MAILED: 11/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/767,492

Applicant(s)

LIN, DANNY YI-HUNG

Examiner

Arun S. Chhabra

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Specification

The disclosure is objected to because of the following informalities: Page 4, line 14 of the specification, it is unclear where the handle unit is. Consider making a reference to number '24' as describing the handle unit for more clarity. Page 6, lines 11-13 are unclear and should try to be reworded for clarity.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-3 are rejected under 35 U.S.C. 102(e) as being anticipated by Ballin (US 2005/0059501).

Ballin discloses a play apparatus with a main frame consisting of a bottom and top board with a spring unit in between so that when the top board and bottom board move to and fro, they will be moving relative to each other. Ballin also shows a seat assembly with a supporting leg frame attached to the top board having front support legs extending upwardly and rearwardly from the proximate end of the top board and rear support legs extending frontwardly and upwardly from the rear end of the top board. In addition, Ballin discloses the supporting leg frame having a top connecting bar with a seat disposed on it which connects to the top end of front and rear support legs.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ballin in view of Shifferaw (US Patent Number 6,716,144).

Ballin discloses the claimed invention except for the foot support frame.

Shifferaw teaches that it is known to use a foot support frame as shown in Figures 8 and 9 and set forth in column 5, lines 30-38 as well as column 8, lines 35-41 to provide a place to set one's feet when using the device. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the play apparatus as taught by Ballin, with a foot support frame as taught by Shifferaw, since such a modification would provide the play apparatus with a frame consisting of a foot support attached to a connecting plate which attaches to the main body of the device for providing a place for a user to place his/her feet when using the device.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ballin in view of Cheng (US Patent Number 5,215,511).

Ballin discloses the claimed invention except for the handlebars on the side of the chair. Cheng teaches that it is known to use handle bars or units as set forth in Figure 1 and columns 2 and 4, lines 25-30 and 5-8 respectively, to hold on to when using the apparatus. It would have been obvious to one having ordinary skill in the art

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at the time the invention was made to modify the play apparatus as taught by Ballin, with handlebar units as taught by Cheng, since such a modification would provide the play apparatus with handle bars for the user to hold on to while using the device to balance and/or support themselves.

Claims 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ballin in view of Chang (US Patent Number 5,582,567).

Ballin discloses the claimed invention except for the base support and holding unit consisting of positioning tubes and holding members. Chang teaches that it is known to have a base support and holding unit with positioning tubes and holding members as set forth in figure 5 and column 3, line 18 – column 4, line 8 to give balance and to carry out arm movements. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the play apparatus as taught by Ballin, with a base support and holding members attached to it as taught by Chang, since such a modification would provide the play apparatus with a base support and holding members connected to positioning tubes via fastening units for allowing a user to engage in exercises for balance and muscle training.

Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ballin in view of Chang as applied to claims 7 and 8 above, and further in view of Jackson (US Patent Number 6,558,301).

Ballin and Chang disclose the claimed invention except for the fastening unit being a hook fastener on one side and a loop fastener on the other. Jackson teaches that it is known to use a hook and loop fastener as set forth in figure 2 and in column 7,

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lines 26-63 to provide a means for attaching a holding member to a base. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the holding member on the play apparatus as taught by Ballin in view of Chang, with a hook and loop fastening unit as taught by Jackson, since such a modification would provide the play apparatus with a way of attaching the holding member to the base of the apparatus so that the user could hold on to it while sitting and exercising on the apparatus.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:


1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Arun S. Chhabra whose telephone number is 571-272-7330. The examiner can normally be reached on M-F 8:30-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory Huson can be reached on 571-272-4887. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


STEPHEN R. CROW
PRIMARY EXAMINER
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